

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

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2011 JUN 14 AM 11:26

CATHY S. GATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

MANVILLE PERSONAL INJURY  
SETTLEMENT TRUST; AMALGAMATED  
BANK, AS TRUSTEE FOR THE  
LONGVIEW COLLECTIVE INVESTMENT  
FUNDS; and CALIFORNIA STATE  
TEACHERS' RETIREMENT SYSTEM;

Petitioners,

vs.

DON L. BLANKENSHIP; BAXTER  
PHILLIPS, JR.; E. GORDON GEE;  
RICHARD M. GABRYS; JAMES  
CRAWFORD; BOBBY R. INMAN; ROBERT  
H. FOGLESONG; STANLEY C.  
SUBOLESKI; J. CHRISTOPHER ADKINS;  
M. SHANE HARVEY; MARK A.  
CLEMENS; ELIZABETH S. CHAMBERLIN;  
and RICHARD R. GRINNAN;

Contemners,

MASSEY ENERGY COMPANY, a Delaware  
Corporation;

Nominal Defendant.

Case No. 07-C-1333

Judge James C. Stucky

(Contempt Proceeding)

**RULE TO SHOW CAUSE AND ORDER  
ESTABLISHING A SCHEDULING CONFERENCE**

Pending before this Court is a Petition for Civil Contempt for violations of the June 30, 2008 Agreed Order and Final Judgment (hereinafter the "Order"). After consideration of the Petition and supporting documentation, the Court finds and concludes as follows:

1. Plaintiffs have made a *prima facie* showing that the alleged Contemners have violated the Order and the Stipulation of Settlement ("Stipulation") incorporated "as operative terms and provisions" of the Order, as well as the Order's express directive to perform the Stipulation's terms (Order ¶¶ 1, 6), by:

- a. Failing to implement the required monitoring, management, and reporting system. *See Stipulation Ex. 2 §§ B & C.*
  - b. Violating the public reporting requirements. *See Stipulation Ex. 2 § B(2).*
  - c. Failing to create and oversee a system for reporting safety compliance issues and to adopt whistleblower protections. *See Stipulation Ex. 2 § D.*
  - d. Failing to fulfill the training-related review, recommendation, and reporting requirements. *See Stipulation Ex. 2 § B(3).*
  - e. Failing to make a good faith effort to reform Massey Energy's corporate governance as intended by and required under the Order and Stipulation. *See Stipulation ¶ 2 & Ex. 2.*
2. Accordingly, the Court will conduct a hearing at which the alleged Contemnors shall have an opportunity to show cause why they should not be held in civil contempt of this Court's June 30, 2008 Agreed Order and Final Judgment on October 24, 2011 and continuing thereafter.
  3. A scheduling conference will be held in this matter on the 5th day of July, 2011 at 2:30 p.m.
  4. Plaintiffs shall serve this Rule and Order along with their Petition for Civil Contempt and supporting documentation on the named Contemnors in accordance with West Virginia Rules of Civil Procedure 4.1 unless counsel for Contemnors agree to accept or waive such service, in which case service can be made on counsel for Contemnors.

It is so ORDERED.

6-13-2011

Date

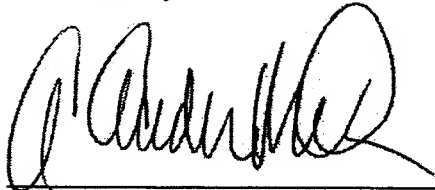
James C. Stucky  
Honorable James C. Stucky, Judge

STATE OF WEST VIRGINIA  
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY  
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.  
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS  
DAY OF June, 2011  
Cathy S. Gatson CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

J. Anderson, J. Rice, V. Nelson, A. MacQueen

6/14/11  
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